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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,633	03/06/2001	Edward L. Schwartz	74451.P127D9	3348

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11/19/2004

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EXAMINER

CHEN, WENPENG

ART UNIT

PAPER NUMBER

2624

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/800,633	Applicant(s) SCHWARTZ ET AL.	
	Examiner Wenpeng Chen	Art Unit 2624	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See the attachment.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 1,3,4,6,7,9 and 22-30.

Claim(s) objected to: 31-38 and 42-45.

Claim(s) rejected: 2,5,8,10-21 and 39-41.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 10/14/2004.
10. ☐ Other: _____

 11/17/04

Wenpeng Chen
Primary Examiner
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1. The argument with regard to the objection to specification amendment set forth on 8/25/2004 is not persuasive. If we rewrite the addition to the third paragraph of page 67 as "In [one] embodiment, packets of a complete tile-part in the codestream are selected based on (1) a total bandwidth of the first and second passes, (2) size of the buffer, or (3) a total bandwidth of the first and second passes and size of the buffer, we can see the original Claims 2-3 only support conditions (1) and (2), respectively. Condition (3) is never supported either by the specification nor the original claims.

2. The Applicants state that: "Specifically, independent claims 10, 15, and 20 have been amended to include an allowable subject matter of the objected claims 31, 35, and 42 respectively." After comparing with the Final Rejection set forth on 8/25/2004, including the added limitation do not warranty allowability for the claims. To be allowed, the claims need to include all the following limitations, especially the highlighted ones:

-- *performing rate control with a parser using a packet structure* as recited;

-- *the packet structure is a member of an array of packet structures*, wherein the packet structure comprises;

- a first portion to store a starting pointer of a respective layer of a tile;
- a second portion to store a size of the respective layer of a tile.

It needs further search and consideration to decide claims contain only part of the above listed limitations.

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3. Please note that the proposed amendment creates mixed dependence. For example, apparatus of Claim 26 depends from method of Claim 24. Please check all the dependence in any future amendment.